§ 102.92

to the regional director satisfactory evidence that they have complied with the determination, the regional director shall dismiss the charge. If no satisfactory evidence of compliance is submitted, the regional director shall proceed with the charge under paragraph (4)(D) of section 8(b) and section 10 of the Act and the procedure prescribed in §§ 102.9 to 102.51, inclusive, shall, insofar as applicable, govern: *Provided, however,* That if the Board determination is that employees represented by a charged union are entitled to perform the work in dispute, the regional director shall dismiss the charge as to that union irrespective of whether the employer has complied with that determination.

[36 FR 9133, May 20, 1971]

§ 102.92 Review of determination.

The record of the proceeding under section 10(k) and the determination of the Board thereon shall become a part of the record in such unfair labor practice proceeding and shall be subject to judicial review, insofar as it is in issue, in proceedings to enforce or review the final order of the Board under section 10 (e) and (f) of the Act.

§ 102.93 Alternative procedure.

If, either before or after service of the notice of hearing, the parties submit to the regional director satisfactory evidence that they have adjusted the dispute, the regional director shall dismiss the charge and shall withdraw the notice of hearing if notice has issued. If, either before or after issuance of notice of hearing, the parties submit to the regional director satisfactory evidence that they have agreed upon methods for the voluntary adjustment of the dispute, the regional director shall defer action upon the charge and shall withdraw the notice of hearing if notice has issued. If it appears to the regional director that the dispute has not been adjusted in accordance with such agreed-upon methods and that an unfair labor practice within the meaning of section 8(b)(4)(D) of the Act is occurring or has occurred, he may issue a complaint under §102.15, and the procedure prescribed in §§102.9 to 102.51, inclusive, shall, insofar as applicable, govern; and

§§ 102.90 to 102.92, inclusive, are inapplicable: *Provided, however,* That if an agreed-upon method for voluntary adjustment results in a determination that employees represented by a charged union are entitled to perform the work in dispute, the regional director shall dismiss the charge as to that union irrespective of whether the employer has complied with that determination.

[36 FR 9133, May 20, 1971]

Subpart G—Procedure in Cases Under Section 10(j), (l), and (m) of the Act

§ 102.94 Expeditious processing of section 10(j) cases.

(a) Whenever temporary relief or a restraining order pursuant to section 10(j) of the Act has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be heard expeditiously and the case shall be given priority by the Board in its successive steps following the issuance of the complaint (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all other cases except cases of like character and cases under section 10 (l) and (m) of the Act.

(b) In the event the trial examiner hearing a complaint, concerning which the Board has procured temporary relief or a restraining order pursuant to section 10(j), recommends a dismissal in whole or in part of such complaint, the chief law officer shall forthwith suggest to the district court which issued such temporary relief or restraining order the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

§ 102.95 Priority of cases pursuant to section 10(l) and (m) of the Act.

(a) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of paragraph (4) (A), (B), (C), or (7) of section 8(b) of the Act, or section 8(e) of the Act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other

cases in the office except cases of like character and cases under paragraph (4)(D) of section 8(b) of the Act in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the Act.

(b) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 of the Act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character and cases under section 10(1) of the Act.

§ 102.96 Issuance of complaint promptly.

Whenever the regional attorney or other Board officer to whom the matter may be referred seeks injunctive relief of a district court pursuant to section 10(1) of the Act, a complaint against the party or parties sought to be enjoined, covering the same subject matter as such application for injunctive relief, shall be issued promptly, normally within 5 days of the date upon which such injunctive relief is first sought, except in those cases under section 10(1) of the Act in which the procedure set forth in §§102.90 to 102.92, inclusive, is deemed applicable.

§ 102.97 Expeditious processing of section 10(1) and (m) cases in successive stages.

(a) Any complaint issued pursuant to §102.95(a) or, in a case in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the Act, any complaint issued pursuant to §102.93 or notice of hearing issued pursuant to §102.90 shall be heard expeditiously and the case shall be given priority in such successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except cases of like character.

(b) Any complaint issued pursuant to \$102.95(b) shall be heard expeditiously and the case shall be given priority in its successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except

cases of like character and cases under section 10(l) of the Act.

Subpart H—Declaratory Orders and Advisory Opinions Regarding Board Jurisdiction

§ 102.98 Petition for advisory opinion; who may file; where to file.

Whenever an agency or court of any State or territory is in doubt whether the Board would assert jurisdiction over the parties in a proceeding pending before such agency or court, the agency or court may file a petition with the Board for an advisory opinion on whether the Board would decline to assert jurisdiction over the parties before the agency or the court (1) on the basis of its current standards, or (2) because the employing enterprise is not within the jurisdiction of the National Labor Relations Act.

[24 FR 9102, Nov. 7, 1959, as amended at 51 FR 15613, Apr. 25, 1986; 61 FR 65182, Dec. 11, 1996]

§ 102.99 Contents of petition for advisory opinion; contents of request for administrative advice.

- (a) A petition for an advisory opinion, when filed by an agency or court of a State or territory, shall allege the following:
 - (1) The name of the agency or court.
- (2) The names of the parties to the proceeding and the docket number.
- (3) The nature of the proceeding, and the need for the Board's opinion on the jurisdictional issue to the proceeding.
- (4) The general nature of the business involved in the proceeding and, where appropriate, the nature of and details concerning the employing enterprise.
- (5) The findings of the agency or court or, in the absence of findings, a statement of the evidence relating to the commerce operations of such business and, where appropriate, to the nature of the employing enterprise.
- (b) Eight copies of such petition or request shall be submitted to the Board in Washington, DC. Such petition or request shall be printed or otherwise legibly duplicated. Carbon copies of typewritten matter will not be accepted.

[24 FR 9102, Nov. 7, 1959, as amended at 51 FR 15613, Apr. 25, 1986; 61 FR 65182, Dec. 11, 1996]